IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 25684 of 2004(G)

PETITIONER:

K.VILASINI, W/O. LATE SOORAPANI,
KAITHAVALAPPIL HOUSE, BEACH WARD, BAZAR P.O.,
ALAPPUZHA-688 012.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENTS:

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1. THE SPECIAL TAHSILDAR,
LAND ACQUISITION OFFICE, N.H.47, KOLLAM.

2. THE CHIEF ENGINEER,
N.H.47, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.BASANT BALAJI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF JUDGMENT DATED 4.6.1990 IN O.P.NO.759/1990-M OF THIS HON'BLE COURT.

EXT.P2 TRUE COPY OF AFFIDAVIT DATED 2.12.92 FILED BY FIRST RESPONDENT BEFORE THE PRINCIPAL SUB-COURT, ALAPPUZHA.

EXT.P3 TRUE COPY OF JUDGMENT DATED 11.2.1993 IN L.A.R.NO.33/91 OF THE PRINCIPAL SUB JUDGE, ALAPPUZHA.

EXT.P4 TRUE COPY OF AWARD DATED 20.11.1985 NO.CC4/85-86.

EXT.P5 TRUE COPY OF STATEMENT DATED 15.1.1992 IN LAR NO.33/91 FILED BY PETITIONER & 2 OTHERS BEFORE THE SUB COURT, ALAPPUZHA.

EXT.P6 TRUE COPY OF REPRESENTATION DATED 6.7.2002 SUBMITTED BY PETITIONER AND HER DAUGHTERS BEFORE THE HON'BLE AGRICULTURE MINISTER.

EXT.P7 TRUE COPY OF REPRESENTATION DATED 9.7.2004 SUBMITTED BY PETITIONER BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.

EXT.P8 TRUE COPY OF JUDGMENT DATED 8.7.1994 IN L.A.A.NO.97/1989 OF THE HON'BLE HIGH COURT OF KERALA.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. To Judge.

K.PADMANABHAN NAIR, J.

W.P.(C) No.25684 OF 2004

Dated this the 10th December, 2007.

J U D G M E N T

According to the petitioner, an area of 18.50 cents (07.48 Ares) of land comprised in Sy.No.492/3-2 of Alappuzha Village was acquired by the respondent for construction of a By-pass in the year 1982. Possession was taken on 7.6.1982. Petitioner was awarded an amount of Rs.69,453.96 as compensation. She claimed enhancement. According to the petitioner, she was not given any enhancement on the ground that the records are misplaced. Subsequently, in the year 1990, this Court directed the respondent to refer the matter to Sub Court. But that was never done, and the matter is being unnecessarily delayed. According to the petitioner, adjoining properties were also acquired and there was a reference under Section 18 of the Land Acquisition Act. In L.A.A.No.97/89, this Court fixed the land value involved in that case at the rate of Rs.5000/= per Are. So, I have directed the respondents to re-determine the compensation taking Rs.5000/= as the land value and pay the same to the petitioner.

2. Today, the learned Government Pleader, on instructions, submits that the Land Acquisition Officer has calculated the amount, which will come to Rs.29,143.68. The grievance of the petitioner is that no statutory benefits are given to this amount. The stand taken by the Government is that award in this case was passed on 31.5.1982, and the land was taken possession on 7.6.1982, and as such, the petitioner is not entitled to get 30% solatium or interest, as per Section 34 of the Land Acquisition Act.

3. The respondent has been awarded 15% solatium calculated in accordance with the provisions of the repealed Act. The petitioner is entitled to get interest at least from 24.8.2004, the date of filing of the present Writ Petition, at the rate of 9% till the date of payment. Hence, there will be a direction to the respondent to award interest at the rate of 9% on the amount re-determined from 24.8.2004 also to the petitioner.

The writ petition is disposed of with the above terms.

K.PADMANABHAN NAIR,
JUDGE

nj.